

**OCTOBER 21, 2008 ZONING HEARING  
“OTHER BUSINESS”  
COMMISSION DISTRICT 3**

**ITEM #2**

**PURPOSE**

To consider amending the stipulations regarding Z-93 (SAWGRASS HOMES) of September 19, 2006, for property located in Land Lots 455 and 482 of the 16th District. Located on the east side of Trickum Road, north of Sandy Plains Road.

**BACKGROUND**

The subject property is zoned RA-5 pursuant to a settlement of litigation approved on March 20, 2007. The Board of Commissioners decision is attached. One of the stipulations required if a land disturbance permit had not been issued within nine (9) months from the date of approval (March 20, 2007) the zoning shall revert to the R-20 zoning district. This request seeks an extension of the reversion until January 2010. The Other Business application is also attached.

**FUNDING**

N/A

**RECOMMENDATION**

The Board of Commissioners consider the request to extend the reversion of the property until January 31, 2010.

**ATTACHMENTS**

Board of Commissioners Decision  
Other Business Application

PAGE 8 OF \_\_\_\_\_ APPLICATION NO. Z-93

ORIGINAL DATE OF APPLICATION: 09-19-06

APPLICANTS NAME: SAWGRASS HOMES

THE FOLLOWING REPRESENTS THE FINAL DECISIONS OF THE  
COBB COUNTY BOARD OF COMMISSIONERS

**BOC DECISION OF 03-20-07 ZONING HEARING:**

**OTHER BUSINESS ITEM #1 – TO CONSIDER A SETTLEMENT OF  
LITIGATION PROPOSAL REGARDING Z-93 (SAWGRASS HOMES) OF  
SEPTEMBER 19, 2006**

To consider a Settlement of Litigation proposal regarding Z-93 (SAWGRASS HOMES) of September 19, 2006, requesting rezoning from R-20 to RA-5 for the purpose of a Subdivision in Land Lots 455 and 482 of the 16th District. Located on the east side of Trickum Road, north of Sandy Plains Road.

Mr. Mark Danneman, Zoning Division Manager, provided information regarding the proposal for settlement of litigation. The public hearing was opened and Mr. Garvis L. Sams, Jr., and Ms. Allison Smith addressed the Board. Following presentations and discussion, the following motion was made:

MOTION: Motion by Lee, second by Olens, to **approve** the following relative to the settlement proposal for Z-93 (SAWGRASS HOMES) of September 19, 2006, requesting rezoning from R-20 to RA-5 for the purpose of a Subdivision in Land Lots 455 and 482 of the 16th District, located on the east side of Trickum Road, north of Sandy Plains Road:

- to **authorize** settlement of litigation regarding Cobb Superior Court Civil Action File No. 06-1-7900-18
- to **approve** rezoning to the RA-5 zoning district subject to:
  - if land disturbance permit has not been issued within nine (9) months from the date of this hearing, Zoning shall revert to the R-20 zoning district
  - maximum of 22 lots
  - allowed reduction in front setback to fifteen (15) feet
  - maintaining minimum fifteen (15) feet between structures
  - installation of a ten foot (10') landscaped buffer, undisturbed during construction, adjacent to residential properties
  - landscaping plan and final site plan to be approved by the District Commissioner
  - letter of agreeable stipulations from Mr. Garvis L. Sams, Jr., dated December 27, 2006 *not otherwise in conflict and with the following changes* (copy attached and made a part of these minutes):

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APPLICATION NO. Z-93

ORIGINAL DATE OF APPLICATION: 09-19-06

APPLICANTS NAME: SAWGRASS HOMES

THE FOLLOWING REPRESENTS THE FINAL DECISIONS OF THE  
COBB COUNTY BOARD OF COMMISSIONERS

**BOC DECISION OF 03-20-07 ZONING HEARING (CONTINUED):**

- Item No. 11 – Amend to now read: *“Denominating that area of the subject property situated east of the easternmost stormwater management area/detention pond as Open Space in the form of a conservation easement with an agreement that said portion of property shall remain undisturbed in perpetuity.”*
- engineering to be completed before Land Disturbance Permits are issued
- Fire Department comments and recommendations
- Water and Sewer Division comments and recommendations
- Stormwater Management Division comments and recommendations
- Cobb DOT comments and recommendations
- owner/developer to enter into a Development Agreement pursuant to O.C.G.A. §36-71-13 for dedication of system improvements to mitigate traffic concerns

VOTE: **ADOPTED** unanimously

SAMS, LARKIN & HUFF  
A LIMITED LIABILITY PARTNERSHIP

ATTORNEYS AT LAW  
SUITE 100  
376 POWDER SPRINGS STREET  
MARIETTA, GEORGIA 30064-3448

PAGE 10 OF     

GARVIS L. SAMS, JR.  
JOEL L. LARKIN  
PARKS F. HUFF  
JAMES A. BALLI\*  
MELISSA P. HAISTEN

770-422-7016  
TELEPHONE  
770-426-6583  
FACSIMILE

December 27, 2006

WWW.SAMSLARKINHUFF.COM

OF COUNSEL  
DAVID P. HARTIN

\*ALSO LICENSED TO PRACTICE  
IN ALABAMA

VIA HAND DELIVERY

Fred D. Bentley, Jr., Esq.  
Bentley, Bentley & Bentley  
241 Washington Avenue  
Marietta, GA 30060

O.B.#1  
Min. Bk. 48 Petition No. Z-93 '06  
Doc. Type stipulated letter  
Meeting Date march 29, 2007

Re: Application of Sawgrass Homes to Rezone an 8.52 Acre Tract  
from R-20 to RA-5 (No. Z-93)

Sawgrass Homes, et al., v. Cobb County, Georgia, et al  
Cobb Superior Court, Civil Action File No. 06-1-7900-18

Dear Fred:

As you know, this firm represents the applicant and property owners concerning the above-captioned matters. In that regard and based upon the tentative agreement which was reached through our mediation session with Judge G. Conley Ingram last week, this letter will confirm that the proposed settlement of litigation will be heard and considered by the Board of Commissioners at its next available Executive Session. Thereafter, assuming we have met the District Commissioner's and Board's expectations with respect to the proposed settlement, it is my understanding that the matters will be placed on the Board's "Other Business" agenda which will immediately follow the regularly scheduled zoning hearings on February 20, 2007.

With respect to the foregoing, enclosed please find a revised site plan based upon the tentative agreement reached through mediation. The balance of this letter will serve as my clients' expression of agreement with the following revised stipulations which, upon the settlement of litigation being approved, shall become conditions and a part of the requested rezoning, as amended and modified hereby, and binding upon the subject property thereafter:

VIA HAND DELIVERY

Fred D. Bentley, Jr., Esq.  
Bentley, Bentley & Bentley  
December 27, 2006  
Page 2

Petition No. Z-93 '06/03#1  
Meeting Date march 29, 2007  
Continued

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1. The revised stipulations and conditions set forth herein shall replace and supercede in full any and all prior stipulations and conditions in whatsoever form which are currently in place concerning the property which constitutes the subject matter of the above-captioned application for rezoning.
2. Rezoning of the subject property shall be from R-20 to RA-5 conditioned upon the lot sizes and setbacks as shown on that certain revised site plan prepared by DGM Land Planning Consultants being submitted contemporaneously herewith.<sup>1</sup>
3. The subject property shall be developed for single family detached residences upon a total of 8.52 acres for a total number of 22 homes at an overall maximum density of 2.58 units per acre.<sup>2</sup>
4. The size of the single family detached homes shall range from a minimum of 2,500 square feet to 3,500 square feet or greater with each home having an attached two-car garage.<sup>3</sup>
5. The architectural style of the homes shall be executive style and traditional with the composition of said homes consisting of either brick, stacked stone, cedar shake and/or hardy plank siding on all four (4) sides. The architectural style and composition shall be consistent with the photographs being re-submitted contemporaneously herewith.
6. An agreement that any of the homes built with basements will be situated on lots where the prevailing grade and topography allows same. Homes with basements will not be forced into areas which would cause an inordinate amount of grading, subject to the District Commissioner's review and approval.

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<sup>1</sup> The zoning proposal exceeds the RA-5 district in terms of lot size with an average lot size of 9,939 square feet.

<sup>2</sup> The subject property is located in an area on Cobb County Future Land Use Map which reflects Medium Density Residential (MDR) utilization contemplating density ranging from 2.5- 5 u.p.a. At 2.58 u.p.a., the zoning proposal is at the extreme low end of that range of densities.

<sup>3</sup> Price points are anticipated ranging from the high \$400,000's to \$650,000.

VIA HAND DELIVERY

Fred D. Bentley, Jr., Esq.  
Bentley, Bentley & Bentley  
December 27, 2006  
Page 3

Petition No. Z-93'06/O.B.#1  
Meeting Date March 29, 2007  
Continued

PAGE 2 OF     

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7. An agreement to create a Mandatory Homeowners Association which shall be responsible for the upkeep and maintenance of all common areas, landscaped areas, passive amenity areas, fences and lighting within the proposed residential community.
  8. A third-party management company shall be hired to manage the day-to-day operations of the mandatory homeowners association unless the leadership of the homeowners association makes a determination that it wants to assume the responsibility for all commonly owned properties, amenities, the management of the association monies, and ensuring that the association is properly insured.
  9. An agreement to record and enforce a Declaration of Covenants, Conditions and Restrictions which shall contain Covenants, Rules and Regulations applicable to the proposed residential community.
  10. Compliance with the recommendations from the Stormwater Management Division with respect to hydrology, detention and down stream considerations, including the following:
    - a. Limiting the grading of the site to the house pads, rights-of-way, yards and required slopes.
    - b. Conducting a pre-development and post-development sedimentation analysis on the down stream lake.
    - c. Following recommendations with respect to the location, configuration and methodology of on-site detention and water quality ponds.
    - d. The stormwater management area denominated on the revised site plan as a "Park" will consist of either underground detention or above ground detention with a water feature (fountain) subject to staff review and approval.
    - e. Exhibiting heightened sensitivity with respect to downstream bodies of water and an agreement to follow recommendations from the Stormwater Management Division to ensure that there will be no adverse effects to lakes which are located downstream from the subject property.

VIA HAND DELIVERY

Fred D. Bentley, Jr., Esq.  
Bentley, Bentley & Bentley  
December 27, 2006  
Page 4

Petition No. Z-93'06/O.B.#1  
Meeting Date March 20, 2007  
Continued

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11. Denominating that area of the subject property situated east of the easternmost stormwater management area/detention pond as Open Space which shall be conveyed to Cobb County in the form of a Conservation Easement and which will be utilized in a passive manner with an agreement that said portion of the subject property shall remain undisturbed in perpetuity.
  12. An agreement that the construction hours for the development of the subject property and the construction of homes shall be limited to those permitted within the Cobb County Code Section and that there shall be no utilization of heavy equipment occurring past 7:00 p.m. Additionally, Sawgrass will agree to restrict construction equipment which emit excessive noise on Sundays.
  13. Subject to recommendations from the Cobb County Department of Transportation with respect to traffic/transportational issues, including the following:
    - a. The voluntary donation and conveyance of right-of-way on Trickum Road (major collector) so that the County can achieve forty feet (40') from the centerline of same.
    - b. The installation of sidewalk, curb and gutter along the subject property's frontage on Trickum Road.
    - c. Construction of a deceleration lane and appropriate taper along the subject property's frontage on Trickum Road (the dimensions of which will be determined during Plan Review).
    - d. The installation of a ten foot (10') no access easement along the subject property's frontage on Trickum Road except, of course, with respect to the proposed community's entrance located thereon.
  14. The submission of a landscape plan during the Plan Review process, subject to staff review and approval which will include the following:
    - a. The landscaping of water quality ponds and detention areas so that they shall be screened from view from rights-of-way and adjacent residences.

VIA HAND DELIVERY

Fred D. Bentley, Jr., Esq.  
Bentley, Bentley & Bentley  
December 27, 2006  
Page 5

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- b. The rear setback next to Hillcrest Oaks Subdivision shall be 25' with a 10' landscaped buffer.
  - c. There shall be landscaping and visual screening on the south, east and north property lines consisting of the planting of Leyland Cypress trees
  - d. The District Commissioner shall have final review and approval of the landscape plan and all landscaping issues.
  - e. An agreement to identify any specimen trees with the developer utilizing its best efforts to save said specimen trees.
15. Entry signage shall be ground-based, monument style, landscaped consistent with entrance signage along Trickum Road, fully irrigated and incorporated into the submitted landscape plan.
  16. Compliance with recommendations from the Cobb County Water System with respect to the availability and accessibility of sewer and water.
  17. Compliance with recommendations from the Cobb County Fire Department as contained within the Zoning Analysis.
  18. The final site plan and landscape plan shall be subject to review and approval by the District Commissioner who shall also have the authority to make modifications to said plans and these stipulations as the development proposal proceeds through the Plan Review process.

Please do not hesitate to call should you, Commissioner Lee, the Board or staff require any further information or documentation prior to these matters being presented to the Board in Executive Session or prior to the proposed settlement of litigation being heard by the Board of Commissioners as an "Other Business" agenda item immediately following the regularly scheduled zoning hearings on February 20, 2007.

Petition No. Z-93'06/O.B.#1  
Meeting Date March 29, 2007  
Continued

VIA HAND DELIVERY

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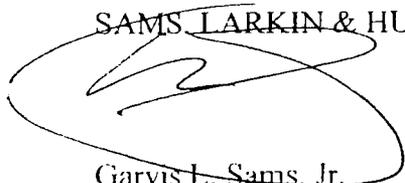
Fred D. Bentley, Jr. Esq.  
Bentley, Bentley & Bentley  
December 27, 2006  
Page 6

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With kindest personal regards and best wishes for the holiday season, I am

Very truly yours,

SAMS, LARKIN & HUFF, LLP



Garvis L. Sams, Jr.

[gsams@samslarkinhuff.com](mailto:gsams@samslarkinhuff.com)

GLSjr/dsj  
Enclosures

cc: Mr. Timothy D. Lee, Commissioner – VIA Hand Delivery – w/enclosures  
Hon. G. Conley Ingram, Senior Judge – VIA Hand Delivery -- w/enclosures  
Dotty Bishop, Esquire – VIA Hand Delivery -- w/enclosures  
Mr. Mark A. Danneman, Manager – VIA Hand Delivery – w/enclosures  
Ms. Carol Granger, County Clerk – VIA Hand Delivery -- w/enclosures  
Ms. Gail K. Huff, Assistant County Clerk – VIA Hand Delivery – w/enclosures  
Ms. Karen L. King, Deputy County Clerk – VIA Hand Delivery – w/enclosures  
Mr. Bradley M. Thompson – VIA E-Mail – w/attachments

# Preliminary Plan Trickum Road Community

Cobb County, Georgia Land Lots 455, 482, 16th District, 2nd Section

prepared for:  
**Sawgrass Homes**

**DGM**  
LANDMARK  
CONSULTANTS

3750 Sawgrass Road  
Lawrenceville, GA 30046  
770-962-9000  
770-962-9100

Scale: 1" = 50'  
May 2, 2006

Revision	Description
1	Initial Plan
2	Revised Plan
3	Final Plan



**Site Data**  
 Total Site Area: 8.52 AC  
 Total Lots Shown: 22  
 Net Density: 2.58 UN/AC  
 Present Zoning: R-20  
 Proposed Zoning: RAS  
 Minimum Lot Size: 7,000 SF  
 Average Lot Size: 9,939 SF  
 Building Setbacks:

front: 15'  
 rear: 25'  
 side: 5'  
 10' Landscape Buffer against R-20

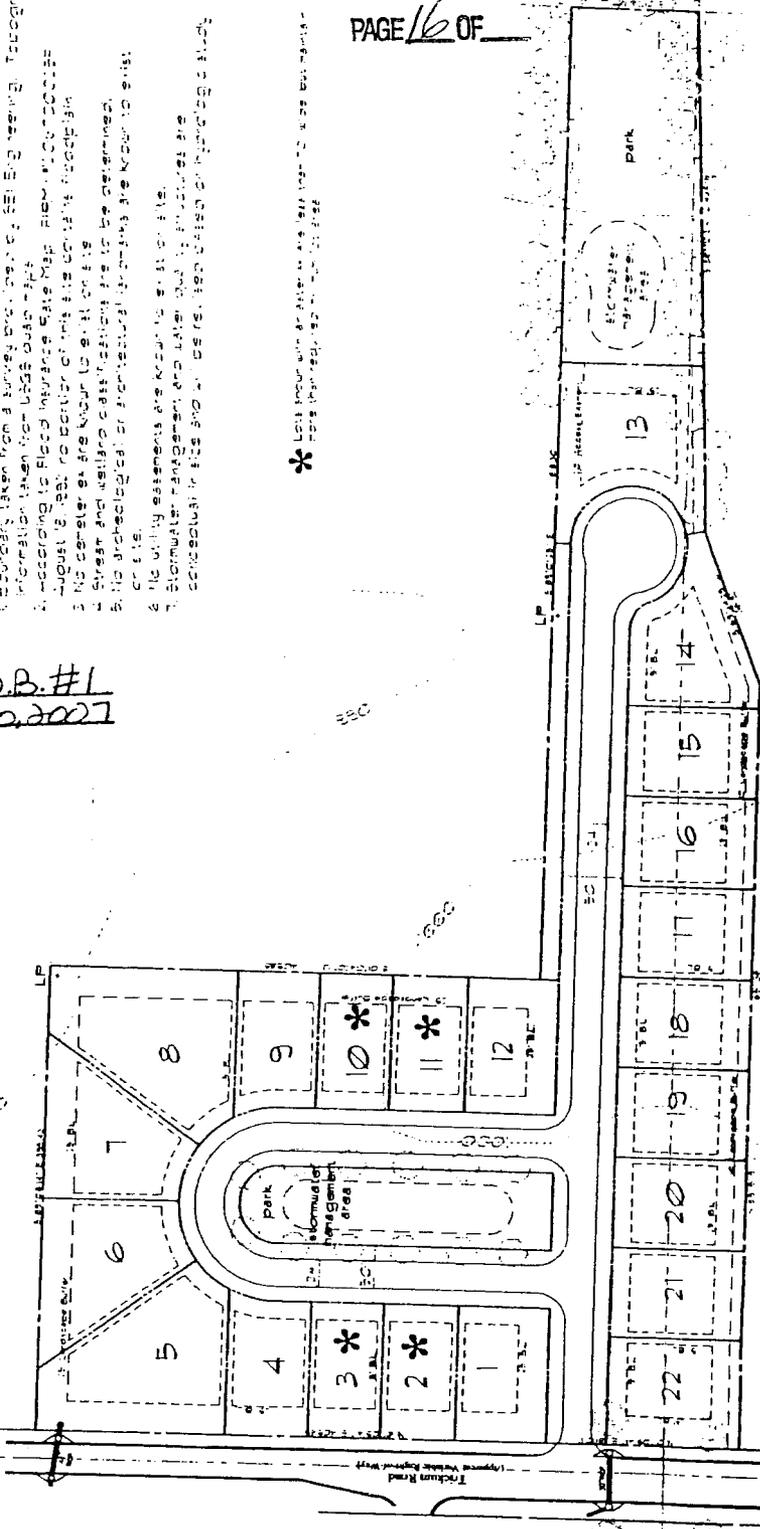
**Notes:**

1. Boundary taken from a survey and plat, see Engineering, Topographic information taken from USGS quadrangle.
2. According to Flood Insurance Rate Map, River in County, dated August 18, 2003, no portion of this site contains floodplain.
3. No easements are known to exist on this site.
4. Easements and utility easements are to be determined.
5. The archeological or architectural landmarks are known to exist on this site.
6. No utility easements are known to exist on this site.
7. Stormwater management and water quality structures are scheduled in this and will be retained based on hydrologic study.

\* Lots shown with asterisks are lots that are to be reserved for future development.

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Petition No. 2-93'06/O.B.#1  
 Meeting Date March 20, 2007  
 Continued



**Allowable Impervious Area by Lot**

Lot #	Lot Size	Allowable Impervious
1	8,780	3,817
2	7,015	3,008
3	7,015	3,008
4	5,053	2,211
5	15,822	6,919
6	12,231	5,412
7	11,429	5,022
8	17,713	7,846
9	8,889	3,926
10	7,015	3,008
11	7,015	3,008
12	8,713	3,811
13	15,128	6,589
14	11,749	5,080
15	8,889	3,926
16	8,889	3,926
17	8,889	3,926
18	8,889	3,926
19	8,889	3,926
20	8,889	3,926
21	8,889	3,926
22	10,231	4,500

See Code Book, Ordinance 2004-10 for more information regarding impervious area. The impervious area is defined as any paved surface, including roofs, sidewalks, parking lots, etc. The impervious area is calculated as a percentage of the total lot area. The impervious area is calculated as a percentage of the total lot area.

# Preliminary Plan Trickum Road Community

Cobb County, Georgia Land Lots 455, 482, 16th District, 2nd Section

prepared for:  
**Sawgrass Homes**

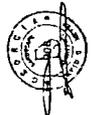


Scale: 1" = 50'  
May 2, 2006

Revisions:

No.	Description	Date
1	Initial Plan	5/2/06
2	Revised Plan	5/2/06
3	Revised Plan	5/2/06
4	Revised Plan	5/2/06
5	Revised Plan	5/2/06
6	Revised Plan	5/2/06
7	Revised Plan	5/2/06
8	Revised Plan	5/2/06
9	Revised Plan	5/2/06
10	Revised Plan	5/2/06
11	Revised Plan	5/2/06
12	Revised Plan	5/2/06
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15	Revised Plan	5/2/06
16	Revised Plan	5/2/06
17	Revised Plan	5/2/06
18	Revised Plan	5/2/06
19	Revised Plan	5/2/06
20	Revised Plan	5/2/06
21	Revised Plan	5/2/06
22	Revised Plan	5/2/06

**DGM**  
Landscape Architecture  
CONSULTANTS  
178 Glen Place  
Kennesaw, GA 30144  
770-511-9006  
FAX 511-9101



Petition No. Z-93'06/O.B.#1  
Meeting Date March 20, 2007  
Continued (displayed at hearing)

**Site Data**  
Total Site Area: 8.52 AC  
Total Lots Shown: 22  
Net Density: 2.58 UN/AC  
Present Zoning: R-20  
Proposed Zoning: RAS  
Minimum Lot Size: 7,000 SF  
Average Lot Size: 9,862 SF  
Building Setbacks:

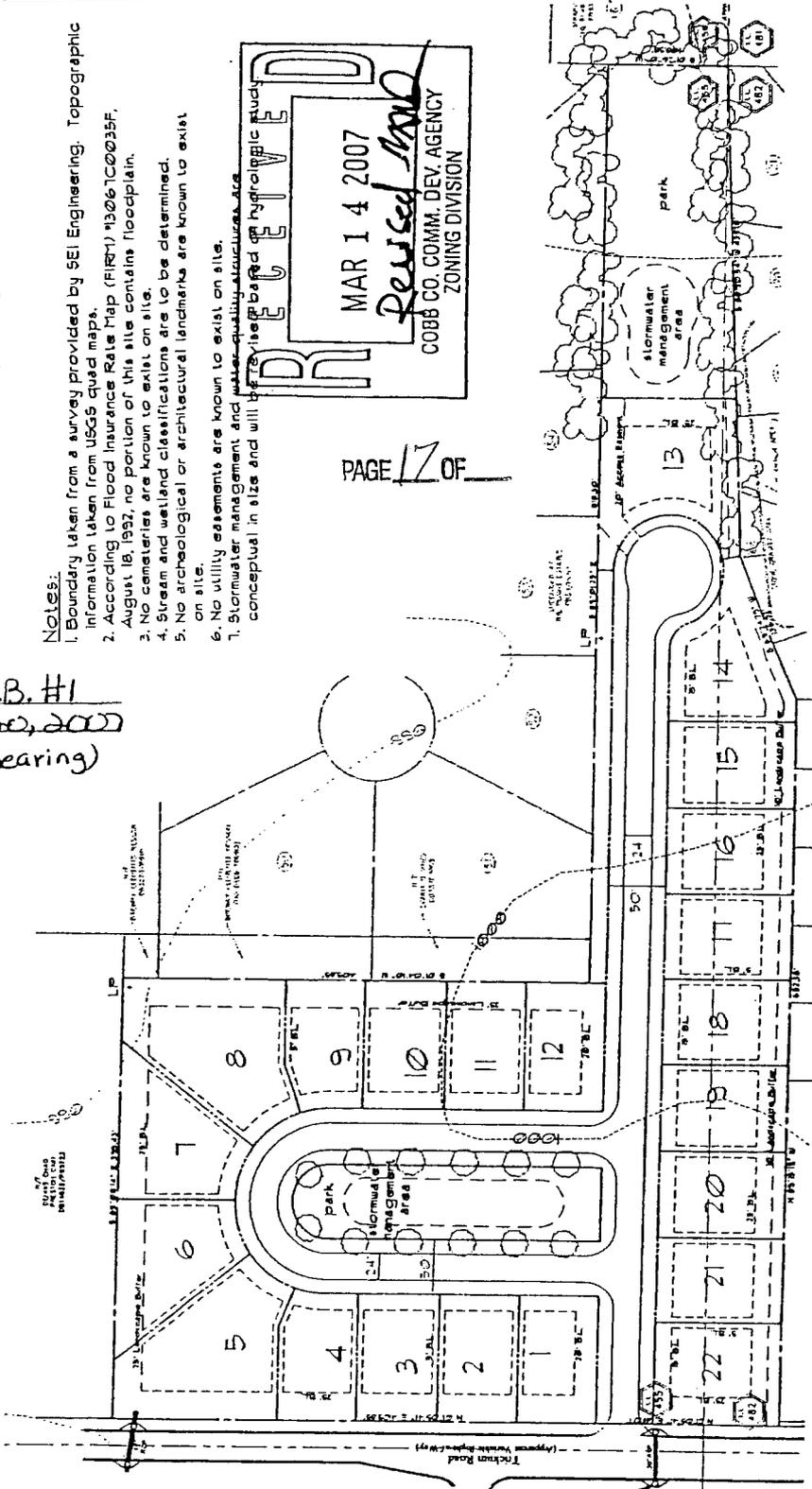
front: 15'  
rear: 25'  
side: 5'  
10' Landscape Buffer against R-20

**Notes:**

- Boundary taken from a survey provided by SEI Engineering, Topographic information taken from USGS quad maps.
- According to Flood Insurance Rate Map (FIRM) #306100035F, August 18, 1992, no portion of this site contains floodplain.
- No cemeteries are known to exist on site.
- Stream and wetland classifications are to be determined.
- No archeological or architectural landmarks are known to exist on site.
- No utility easements are known to exist on site.
- Stormwater management and public-quality structural size conceptual in size and will be revised based on hydrologic study.

**REVISED**  
MAR 14 2007  
*Revised SMD*  
COBB CO. COMM. DEV. AGENCY  
ZONING DIVISION

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Allowable Impervious Area by Lot

Lot #	Lot Size	Allowable Impervious
1	8,050	3,220
2	8,048	3,218
3	8,047	3,218
4	7,824	3,170
5	15,855	6,182
6	11,098	4,438
7	10,887	4,327
8	18,148	7,060
9	7,031	3,129
10	6,644	3,111
11	8,047	3,218
12	15,128	5,720
13	15,148	5,740
14	15,148	5,740
15	8,015	3,142
16	8,015	3,142
17	8,015	3,142
18	8,015	3,142
19	8,015	3,142
20	8,015	3,142
21	8,015	3,142
22	10,821	4,248

Per Cobb County Ordinance, allowable impervious for RA-5 zoning category is 40% of total lot area. Allowable impervious figures shown are calculated as follows:

Area of Lot x 0.4

# Application for "Other Business"

## Cobb County, Georgia

(Cobb County Zoning Division - 770-528-2045)

BOC Hearing Date Requested: 10-21-08

Applicant: Gerald D. BARBARA B. Prewett Phone #: 770-565-2807  
(applicant's name printed) MARIETTA, GA. 30066

Address: 3170 TRICKUM RD. NE E-Mail: bprewett@comcast.net  
Mrs. Edna Miller 3150 Trickum Rd Cell: 404-405-5060  
same Address: \_\_\_\_\_

(representative's name, printed) Edna E. Miller  
Gerald D. Prewett Phone #: 404-405-5060 E-Mail: bprewett@comcast.net  
(representative's signature) Barbara B. Prewett

Signed, sealed and delivered in presence of \_\_\_\_\_  
Notary Public Maquelyn C. Jones My commission expires: 6/19/2012  


Commission District: 3 Zoning Case: Z-93

Date of Zoning Decision: 9-21-07 Original Date of Hearing: 7-18-06  
(amendment)

Location: 3170 Trickum Rd & 3150 Trickum Rd.  
(street address, if applicable; nearest intersection, etc.)

Land Lot(s): 455-482 District(s): 16th, 2nd Section

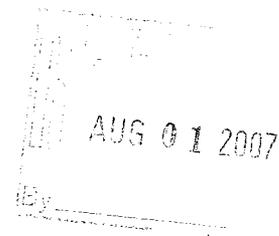
State specifically the need or reason(s) for Other Business: \_\_\_\_\_

We respectfully request an amendment  
extension until January 2010.  
The home owners market did so badly  
this year we are hopeful the market will  
improve next year. Due to the lengthy  
zoning process, we request this  
additional time.

(List or attach additional information if needed)

August 1, 2007

Gerald & Barbara Prewett  
3170 Trickum Road  
Marietta, Georgia 30066



Mark Danneman  
Division Zoning Manager  
191 Lauren Street  
Suite 300  
Marietta, Georgia 30060

RE: Zoning Case # Z93

Dear Mr. Danneman:

Our home and property located at 3170 Trickum Road in Marietta was zoned R5 on March 20, 2007, before the Cobb County Board of Commissioners. This was a long and tedious zoning lasting some 15 months. There is an amendment stipulation with a reversion clause effective December 20, 2007, that reverts our property back to R20 if construction has not begun.

Due to the current home market situation and financial difficulties, the land developers, Sawgrass Homes, terminated their contracts with us May 17, 2007. We fully believe this situation would not have occurred had our zoning not have taken so long.

What a great disappointment after all the many zoning hearings and after working out all of our difficulties with the opposition. We believe that the house and land market situation will most certainly turn around and that our property can be developed in the very near future. For these reasons, we are requesting an amendment extension on our property to January 2009.

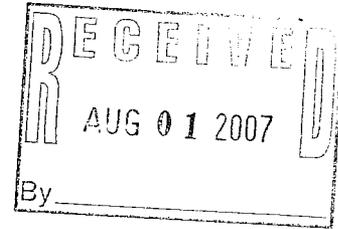
We respectfully request your review of our Zoning Case Z93 for consideration of this amendment extension. Should you wish to reach us or need further information concerning our property, please contact us a 770-565-2807 or 404-405-5060.

We look forward to your reply.

Sincerely,

Gerald D. & Barbara B. Prewett

August 1, 2007



Edna E. Miller  
3150 Trickum Road  
Marietta, Georgia 30066

Mark Danneman  
Division Zoning Manager  
191 Lauren Street  
Suite 300  
Marietta, Georgia 30060

RE: Zoning Case # Z93

Dear Mr. Danneman:

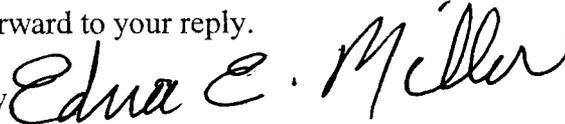
My home and property located at 3150 Trickum Road in Marietta was zoned R5 on March 20, 2007, before the Cobb County Board of Commissioners. This was a long and tedious zoning lasting some 15 months. There is an amendment stipulation with a reversion clause effective December 20, 2007, that reverts our property back to R20 if construction has not begun.

Due to the current home market situation and financial difficulties, the land developers, Sawgrass Homes, terminated their contracts with us May 17, 2007. I fully believe this situation would not have occurred had our zoning not have taken so long.

What a great disappointment after all the many zoning hearings and after working out all of our difficulties with the opposition. I believe that the house and land market situation will most certainly turn around and that our property can be developed in the very near future. For these reasons, I am requesting an amendment extension on my property to January 2009.

I respectfully request your review of our Zoning Case Z93 for consideration of this amendment extension. Should you wish to reach me or need further information concerning my property, please contact me at 770-973-1773.

I look forward to your reply.

Sincerely 

Mrs. Edna E. Miller